

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

<hr/> LINCARE INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 4:22-cv-40126-ADB
	)	
BRIAN DESO	)	
	)	
Defendant.	)	
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**MOTION FOR LEAVE OF COURT TO WITHDRAW APPEARANCE  
AS COUNSEL FOR DEFENDANT BRIAN DESO**

Pursuant to Local Rule 83.5.2(c)(2), the undersigned counsel—Patrick M. Curran, Jr. of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.—respectfully requests leave of Court to withdraw his appearance in this action as counsel for Defendant Brian Deso. The grounds for this Motion are as follows:

1. Mr. Curran represents Mr. Deso in this action, and has done so since filing his notice of appearance in the action on December 2, 2022. *See* ECF Doc. No. 5.
2. On February 3, 2023, Mr. Deso (through Mr. Curran) filed a Motion to Dismiss Plaintiff Lincare, Inc.’s Complaint and Jury Demand, on the grounds that the Nonsolicitation and Nondisclosure Agreement underlying Lincare’s claims against Mr. Deso contains a forum selection clause providing that “the exclusive venue for any action arising out of [or] related to this Agreement shall be in the Circuit Court of Pinellas County, Florida.” *See* ECF Doc. No. 14.
3. Lincare has filed an Opposition to the Motion to Dismiss, and Mr. Deso (with leave of Court) has filed a Reply in further support of the Motion. *See* ECF Doc. Nos. 20 & 23.
4. As of the date of this Motion, Mr. Deso’s Motion to Dismiss remains pending.

5. On May 2, 2023, the Court entered (at the parties' request) an Order referring this action to mediation with the Honorable Katherine Robertson, U.S. Magistrate Judge. *See* ECF Doc. Nos. 26-28.

6. The parties' efforts to negotiate a resolution of the action via mediation with Judge Robertson have been unsuccessful, and the parties have informed the Court that they wish to withdraw their request for mediation at this time. *See* ECF Doc. No. 38.

7. Mr. Deso has determined that he wishes to proceed in this matter *pro se*, and he has informed Mr. Curran of that decision.

8. Aside from Mr. Deso's Motion to Dismiss, there are no other Motions pending before the Court. No trial date or evidentiary hearing has been set, and no reports (written or oral) are due.

WHEREFORE, Patrick M. Curran, Jr. requests leave of Court to withdraw his appearance as counsel for Defendant Brian Deso in this action.

Respectfully submitted,

/s/ Patrick M. Curran, Jr.

Patrick M. Curran, Jr. (BBO #659322)  
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Dated: August 24, 2023

**CERTIFICATION PURSUANT TO D. MASS. LOCAL RULE 7.1(a)(2)**

I hereby certify that I conferred with Plaintiff's counsel of record, John S. Gannon, Esq., by telephone on August 22, 2023, in a reasonable and good faith effort to resolve or narrow the issues raised by this Motion to the greatest extent possible, and that counsel were unable to resolve or narrow the issues during that conference.

/s/ Patrick M. Curran, Jr.  
Patrick M. Curran, Jr.

### **CERTIFICATE OF SERVICE**

I certify that on August 24, 2023, this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (the “NEF”), and that paper copies will be sent to those indicated on the NEF as non-registered participants.

I further certify that on August 24, 2023, as required by Local Rule 83.5.2(d), I caused a true and correct copy of this document to be served by electronic mail (brianjdeso@gmail.com) on the Defendant, Brian Deso.

/s/ Patrick M. Curran, Jr.  
Patrick M. Curran, Jr.